

## OCCUPATIONAL HEALTH AND SAFETY ACT

Our lives will become a bit more complex as a result of the Government of Ontario announcement to introduce amendments to the Occupational Health and Safety Act. Bill 168 has been given first reading and as the proposed legislation is sponsored by the Ministry of Labour it has a high probability of passing before year-end.

The bill addresses Violence and Harassment in the Workplace. The bill applies to every workplace in Ontario with more than five employees. The proposed legislation requires the following positive actions by an employer:

- Develop a framework that would include policies and programs to help prevent workplace violence and harassment
- Take reasonable precautions to protect an employee from workplace domestic violence
- Post new workplace and harassment policies in the workplace
- Designate a person in the workplace to act as a workplace coordinator with respect to workplace violence and workplace harassment
- Conduct a risk assessment of the workplace to identify risks associated with violence and harassment
- Make available a copy of the risk assessment to the health and safety committee or if there is no committee, provide copies to employees

A significant part of the bill addresses domestic violence and provides that:

“If an employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker”

As with any legislation, there are likely numerous questions. Here are some answers that to questions that have arisen in the past few days.

1. Does the proposed legislation only deal with physical violence?

NO. The proposed legislation addresses physical force, threat of physical force or any “course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome”.

2. Does the right to refuse to work apply to this proposed legislation?

YES. As this proposed legislation will amend the Occupational Health and Safety Act, the provisions dealing with the right to refuse unsafe work or work in an unsafe environment still apply. The proposed legislation addresses the right to refuse work “if workplace violence is likely to endanger the worker”.

3. Is the risk assessment required under the proposed legislation part of a normal health and safety inspection?

NO. The risk assessment is a separate exercise and the foundational piece in establishing your policy and programs to deal with workplace violence and workplace harassment.

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As the proposed legislation amends the Occupational Health and Safety Act, a failure to comply carries with it the same penalties under the current Act including fines to Board and management.

4. If I have existing policies addressing harassment, code of conduct and oppression, do I need to adopt a separate policy for workplace violence and workplace harassment?

YES. The proposed legislation requires employers to develop policies with respect to “What could happen if our organization does not have a policy.”

In its simplest form, the proposed legislation requires employers to:

- Conduct a risk assessment of the workplace
- Develop policies
- Develop and implement programs
- Designate a workplace coordinator

For information on Bill 168 or Occupational Health and Safety please visit:  
[www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&BillID=2181](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2181)

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